

United States District Court
for the
Southern District of New York
Related Case Statement

Full Caption of Later Filed Case:

20230930-DK-BUTTERFLY-1, INC., f/k/a
BED BATH & BEYOND INC.

Plaintiff	Case Number
vs.	24-cv-5874
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RYAN COHEN and RC VENTURES LLC,	

Defendant

Full Caption of Earlier Filed Case:

(including in bankruptcy appeals the relevant adversary proceeding)

In re BED BATH & BEYOND INC.
SECTION 16(b) LITIGATION

Plaintiff	Case Number
vs.	22-cv-9327 (DEH)
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Defendant	

Status of Earlier Filed Case:

<input checked="" type="checkbox"/>	Closed	(If so, set forth the procedure which resulted in closure, e.g., voluntary dismissal, settlement, court decision. Also, state whether there is an appeal pending.)
<input type="checkbox"/>	Open	(If so, set forth procedural status and summarize any court rulings.)

By opinion and order of June 11, 2024, the Court granted Defendants' motion to dismiss the earlier case as moot under Rule 12(b)(1). No. 22-cv-9327, Dkt. No. 96. No notice of appeal was filed. The Court did not reach the merits of the earlier case, declining to address Defendants' motion to dismiss under Rule 12(b)(6). Id. at 13 n.5. The Court also denied the motion of the instant plaintiff, 20230930-DK-Butterfly-1, Inc. ("BBBY"), to be substituted as plaintiff in No. 22-cv-9327, reasoning that "nothing would preclude BBBY from filing its own complaint." Id. at 13.

Explain in detail the reasons for your position that the newly filed case is related to the earlier filed case.

The plaintiffs in the earlier case were BBBY stockholders who brought their case to recover funds on BBBY's behalf. The plaintiff in the new case, BBBY, was named as a nominal defendant in the earlier case. The Court dismissed the earlier case as moot after the earlier plaintiffs' BBBY shares were extinguished in BBBY's bankruptcy, and BBBY is now refiling that dismissed case as plaintiff.

The later case and the earlier case both arise under Section 16(b) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. § 78p(b). Both cases seek to recover funds for BBBY. The plaintiffs in the two cases assert the same claims for relief against the same defendants, relying on similar legal theories and overlapping operative facts.

Signature: /s/ James A. Hunter Date: August 1, 2024

Firm: Law Office of James A. Hunter